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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1932.

No. 747

LOCAL 167 OF THE INTERNATIONAL BROTHERHOOD OF CHAUFFEURS, TEAMSTERS, STABLEMEN, AND HELPERS OF AMERICA, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

STATEMENT AS TO JURISDICTION.

The United States of America instituted the instant proceeding, allegedly pursuant to the provisions of

§ 4 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (26 Stat. 209; U. S. C. A. Title 15, § 4), commonly known as the Sherman Anti-Trust Act, to restrain the defendants from violating §§ 1 and 2 of said Act of Congress, providing, respectively:

> "§ 1. *Trusts, etc., in restraint of trade illegal; penalty.*—Every contract, combination in the form of trust or otherwise or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is declared to be illegal."

> "§ 2. *Monopolizing trade a misdemeanor; penalty.*—Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several states, or with foreign nations, shall be deemed guilty of a misdemeanor * * *."

On February 6, 1932, after a trial before the Honorable Francis G. Caffey, District Judge, in the District Court of the United States for the Southern District of New York, a final decree was issued restraining the defendants from engaging in certain specified acts. On April 5, 1932, a petition for leave to appeal to the United States Supreme Court, from the said decree, was presented by the appellants herein.

In a proceeding such as the instant one, an appeal from a final decree lies directly to the United States Supreme Court.

The Expediting Act of February 11, 1903 (32 Stat. 823; Title 15, U. S. C. A. § 29), provides as follows:

> "*Appeals to Supreme Court.*—In every suit in equity brought in any district court of the United States under any of the laws mentioned in the preceding section, wherein the United States is complainant, an appeal from the final decree of the district court will lie only to the Supreme Court, and must be taken within sixty days from the entry thereof." (Feb. 11, 1903, c. 544, Sec. 2, 32 Stat. 823; Mar. 3, 1911, c. 231, Sec. 291, 36 Stat. 1167.)

The "preceding section", referred to in the said statute, mentions §§ 1 to 7 of Title 15, U. S. C. A., and provides in part as follows:

> "*Suits against monopolies expedited.*—In any suit in equity brought in any district court of the United States under §§ 1 to 7, inclusive, of Title 15 of this chapter or any other statutory provision having a like purpose enacted after February 11, 1903, or that may be enacted wherein the United States is complainant * * *." (Title 15, U. S. C. A. § 28.)

The instant proceeding, as above noted, being one under §§ 1 to 7, it follows that this cause is within the provisions of §§ 28 and 29 of Title 15, U. S. C. A., and consequently appealable to the United States Supreme Court.

See too:

U. S. v. *California Co-operative Canneries*, 279 U. S. 553, 558.

SAMUEL H. KAUFMAN,
Solicitor for Appellants, Local 167 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, Carl Firestone, Charles Gershowitz, Morris Markman, Abe Newman, Official Orthodox Poultry Slaughterers of America, Inc., Harry Schoner, Charles Herbert, Harry Herbert, David Kaufman, Max Keslin, Samuel Silverman, Joseph Weiner, Aaron Weissler, and Arthur Herbert.

NATHAN D. PERLMAN,
Solicitor for Appellant Joseph Roseman.

Dated March 16, 1933.